



AGENDA
LABOR MANAGEMENT RELATIONS BOARD
Thursday, February 2, 2017 at 10:00AM
City Hall Conference Room
425 N. Richardson, Roswell, NM 88201

CALL TO ORDER

ROLL CALL

APPROVAL OF AGENDA

APPROVAL OF THE MINUTES from the January 13, 2017. *Page 2*

REGULAR ITEMS

Roswell Professional Fire Fighters

1. Consider accepting the City's position regarding Fire Lieutenants being included in the bargaining unit.
2. Consider, after the investigation of interest pursuant to Labor Management Relations Board Rule 2.6, accepting the Petition if the Board determines that there is sufficient interest.
3. Consider setting a hearing on election pursuant to LMRB Rule 2.10 should the parties fail to enter into a consent election agreement under LMRB Rule 2.9.

Roswell Police Officers' Association

4. Consider setting a hearing on *Prohibited Practice Complaint* dated January 24, 2017 from Roswell Police Officers' Association. *Page 4.*

Rule Making

5. Consider, after discussion, advertising a rulemaking hearing relating to amend the LMRB Rules concerning to election, and selection of Chair, and consider scheduling a rule making hearing pursuant to LMRB 1.8(b).

ADJOURN

Notice of this meeting has been given to the public in compliance with Sections 10-15-1 through 10-15-4 NMSA 1978 and Resolution 16-69.

NOTICE OF POTENTIAL QUORUM – A quorum of the City Council may or may not attend, but there will not be debate by the City Council. The Council, acting as attendees to an informational presentation, will not be discussing public business and no action will be taken.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact Human Resources at 575-624-6700 at least one week prior to the meeting or as soon as possible. Public documents including the agenda and minutes can be provided in various accessible formats. Please contact the City Clerk at 575-624-6700 if a summary or other type of accessible format is needed.

Printed and posted: **Monday, January 30, 2017**

**Regular Meeting of the Labor Management Relations Board
Held in the Conference Room at City Hall
January 13, 2017**

Notice of this meeting was given to the public in compliance with Sections 10-15-1 through 10-15-4, NMSA 1978 and Resolution 16-69.

ROLL CALL

The meeting convened at 10:04 a.m. with chair Rich Olson presiding and members Pauline Ponce and Eugene De Los Santos present.

Staff Present: Sharon Coll, Devin Graham, Jason Sweatfield, Stephanie Garay and Aaron Holloman.

Guest Present: Juan Oropesa, Caleb Grant, Ron Chambers and Richard Garcia.

APPROVAL OF AGENDA

Ms. Ponce moved to approve the January 13, 2017 Labor Management Relations Board meeting agenda as presented. Judge De Los Santos was the second. A voice vote was unanimous and the motion passed.

REGULAR ITEMS (ACTION ITEMS)

1. Consider to accept or reject the Petition after considering procedural adequacy of service pursuant to Sections 1.2 and 2.1 of the Petition. Mr. Olson discussed the Petition seeking certification of a bargaining unit by the Roswell Professional Fire Fighters Association with the Labor Management Relations Board. Ms. Ponce moved to accept the Petition as filed with the City Clerk via the Roswell Professional Fire Fighters Association and record as filed on January 13, 2017. Judge De Los Santos was the second. A voice vote was unanimous and the motion passed.

2. Consider setting a date for a representation hearing after determining, pursuant to Section 2.7 of the Rules and Regulations of the Roswell Labor Relations Board, the need for a representation hearing concerning the Petition pursuant to Section 21.11 of the Rules and Regulations of the Roswell Labor Relations Board. Staff and the Labor Management Relations Board members discussed the timeline according to the rules and regulations and if Lieutenants would be included. Chair Olson discussed setting a hearing for this decision. Mr. Holloman stated he sees the timeline as the Notice of the Petition being filed today, January 13, 2017, the notice would need to be published to all eligible employees within 10 days and within 45 days of that posting the Labor Management Relations Board would be required to have a hearing as to the issues for the election. Ms. Ponce moved to reconvene in 20 days from this date (January 13, 2017) to set a meeting and 10 days after today (January 13, 2017) the City Attorney state their position, a prior position of Lieutenants of whether that is binding or not based on a past determination and the Fire Fighter Association respond to the City regarding their position to include Lieutenants in the Collective Bargaining Unit or not and at that meeting, to consider the position of the City and the Roswell Fire Fighter Association and if necessary set an evidentiary hearing, and if not, at that point, setting of a time of election will be determined. Judge De Los Santos was the second. A voice vote was unanimous and the motion passed.

3. Consider to accept or reject service of board members based on qualifications of board members after review. Mr. Olson disclosed his affiliation with the City of Roswell. Mr. Olson represented the City of Roswell temporarily on legal issues as consulted during the interval when the City was without a staff City Attorney. The firm also represents the insurance carrier for the City in connection to civil rights cases. Ms. Ponce moved that the Chairman has disclosed his affiliation with the City, legal representation and in matters with insurance carrier. The board feels there is no issue to disqualify Mr.

Olson of being a member of the Labors Management Relations Board. Judge De Los Santos was the second. A voice vote was 2-0 with Mr. Olson abstaining. The motion passed.

4. Consider the posting of appropriate notices of the filing of the Petition. Staff and the Labor Management Relations Board members discussed the timeline according to the rules and regulations and if Lieutenants would be included. Chair Olson discussed setting a hearing for this decision. Mr. Holloman stated he sees the timeline as the Notice of the Petition being filed today, January 13, 2017, the notice would need to be published to all eligible employees within 10 days and within 45 days of that posting the Labor Management Relations Board would be required to have a hearing as to the issues for the election. Ms. Ponce moved to reconvene in 20 days from this date (January 13, 2017) to set a meeting and 10 days after today (January 13, 2017) the City Attorney state their position, a prior position of Lieutenants of whether that is binding or not based on a past determination and the Fire Fighter Association respond to the City regarding their position to include Lieutenants in the Collective Bargaining Unit or not and at that meeting, to consider the position of the City and the Roswell Fire Fighter Association and if necessary set an evidentiary hearing, and if not, at that point, setting of a time of election will be determined. Judge De Los Santos was the second. A voice vote was unanimous and the motion passed.

5. Consider setting of subsequent meetings, as may be required under the Rules and Regulations of the Roswell Labor Relations Board, in connection with the investigation of the Petition and other matters as may be necessary to facilitate the consideration of and determining the Petition. The Labor Management Relations Board discussed the timeline briefly and the date. Ms. Ponce motioned to set the date for the next meeting on Thursday, February 2, 2017 at 10:00 a.m. Judge De Los Santos was the second. A voice vote was unanimous and the motion passed.

NON-ACTION ITEMS

Request for certain information necessary to facilitate the handling and consideration of the Petition. Mr. Holloman briefly discussed.

ADJOURN

Judge De Los Santos moved to adjourn. Ms. Ponce was the second. A voice vote was unanimous and the motion passed. The meeting adjourned at 10:38 a.m.



ATTORNEYS AT LAW

RECEIVED

JAN 27 2017

CITY CLERK
ROSWELL, NM

TELEPHONE : (505) 247-4321
FACSIMILE : (505) 247-4441

STREET ADDRESS
115 EIGHTH STREET SW, ALBUQUERQUE, NM 87102 / P.O. BOX 1966, ALBUQUERQUE, NM 87103

MAILING ADDRESS

January 24, 2017

Sent via First Class U.S. Mail

Mayor Dennis J. Kintigh
City of Roswell
425 N. Richardson
Roswell, NM 88201

Sent via First Class U.S. Mail

Chief Phil Smith
Roswell Police Department
128 W. Second Street
Roswell, NM 88201

Sent via First Class U.S. Mail

Aaron Holloman
City Attorney
PO Drawer 1838
Roswell, NM 88202-1838

Sent via First Class U.S. Mail

City of Roswell
PO Drawer 1838
Roswell, NM 88202-1838

RE: Prohibited Practice Complaint

To Whom It May Concern:

Enclosed please find the Prohibited Practice Complaint, which was mailed to the City of Roswell Labor-Management Relations Board for filing on the date of this correspondence.

Should you have any questions, please do not hesitate to contact our office.

Sincerely,

Allyson Gonzalez
Paralegal for Frederick M. Mowrer

Enclosure

RAYMOND G. SANCHEZ
rgsanchez@smdlegal.com

FREDERICK M. MOWRER
fmmowrer@smdlegal.com

ROBERT J. DESIDERIO
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esferreira@smdlegal.com

**CITY OF ROSWELL
LABOR MANAGEMENT RELATIONS BOARD**

**ROSWELL POLICE OFFICERS'
ASSOCIATION,**

Petitioner,

v.

Case No. _____

**CITY OF ROSWELL,
ROSWELL POLICE DEPARTMENT,**

Respondents.

PROHIBITED PRACTICE COMPLAINT

COMES NOW, the Petitioner, Roswell Police Officers' Association ("RPOA"), by and through its attorney of record, Frederick M. Mowrer of Sanchez, Mowrer & Desiderio, P.C., and for its Prohibited Practice Complaint against the City of Roswell and the Roswell Police Department ("City") would state as follows:

1. The RPOA is recognized by the City as the exclusive Collective-Bargaining Unit for purposes of representation of its members concerning working conditions, economic matters, and Union security.

2. The RPOA membership consists of sworn certified officers of the Roswell Police Department from the rank of Sergeant down.

3. The RPOA and the City, beginning in 1995, have entered into a series of Collective-Bargaining Agreements ("CBAs") concerning the working conditions and job security of members of the RPOA.

4. There is currently a CBA in effect between the parties.

5. The City, by executing the above-referenced CBA, recognizes the property rights of the membership of the RPOA to their respective employment relationship with the City.

6. The above-referenced CBA is authorized, negotiated and executed pursuant to State Statute (*see* N.M. Stat. Ann §§10-7E-1, *et seq.* (1978)) and City ordinances.

7. The City, by executing the above referenced CBA, recognizes that job security for members of the RPOA is critical to the future of the Association and its membership.

8. The CBA presently in effect between the parties hereto was executed to address and secure working conditions, pay, any loss of pay, seniority and other benefits of employment.

9. Upon information and belief of the RPOA, the City has violated Section 29.1 of the CBA by failing to pay step raises that were due for payment beginning in January of 2017.

10. Upon information and belief of the RPOA, this violation of the CBA also occurred on July 1, 2016.

11. Upon information and belief of the RPOA, despite protest from the Union officials in promoting the rights of Department employees, the City has failed to properly follow the CBA.

12. All of the above referenced allegations are in violation of the CBA entered into between the respective parties.

WHEREFORE, the Roswell Police Officers' Association would pray for an Order from the City of Roswell Labor-Relations Board finding that the City has committed a Prohibited Practice by violating the contract, for an order directing said practice to stop, and for an award of attorneys' fees and costs, and for such other relief as the Board may find appropriate.

Respectfully submitted,

SANCHEZ, MOWRER & DESIDERIO, P.C.

By: 

FREDERICK M. MOWRER

Attorney for Petitioner Roswell Police Officers Assn.

P.O. Box 1966

Albuquerque, New Mexico 87103

505-247-4321(office)

**CITY OF ROSWELL
LABOR MANAGEMENT RELATIONS BOARD**

**ROSWELL POLICE OFFICERS'
ASSOCIATION,**

Petitioner,

v.

Case No. _____

**CITY OF ROSWELL,
ROSWELL POLICE DEPARTMENT,**

Respondents.

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the *Prohibited Practice Complaint* were mailed via first class mail, postage prepaid, this 24th day of January, 2017:

Mayor Dennis J. Kintigh
City of Roswell
425 N. Richardson
Roswell, NM 88201

Chief Phil Smith
Chief of Police
Roswell Police Department
128 W. Second Street
Roswell, NM 88201

Aaron Holloman
City Attorney
PO Drawer 1838
Roswell, NM 88202-1838

City of Roswell
PO Drawer 1838
Roswell, NM 88202-1838

Labor-Management Relations Board
City of Roswell
425 N. Richardson
Roswell, NM 88201

Respectfully submitted,

SANCHEZ, MOWRER & DESIDERIO, P.C.

By: 

FREDERICK M. MOWRER

*Attorney for Petitioner Roswell Police Officers'
Assn.*

P.O. Box 1966

Albuquerque, New Mexico 87103

Telephone: (505) 247-4321